Manitoba Clean Environment Commission

Annual Report 2004-2005

Manitoba

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MINISTER OF CONSERVATION

Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

His Honour
The Honourable John Harvard, C.M.,O.M.
Lieutenant-Governor of Manitoba
Room 235 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Your Honour:

The undersigned has the honour to present the Annual Report of the Clean Environment Commission detailing its activities for the fiscal year ending March 31, 2005.

Sincerely,

Stan Struthers
Minister

Manitoba

Office of the Chairperson
Clean Environment Commission

305 - 155 Carlton Street
Winnipeg, MB R3C 3H8
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106-01499/

The Honourable Stan Struthers
Minister of Conservation
Room 333 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Mr. Struthers:

Pursuant to the provisions of Section 6(10) of The Environment Act I am pleased to submit to you the Commission's annual report for the year ending March 31, 2005.

Submitted on behalf of the Commission.

Terry Sargeant
Chair

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The Manitoba Clean Environment Commission

The Minister responsible for *The Environment Act* during the 2004-2005 fiscal year was the Honourable Stan Struthers. Commission membership consisted of a full-time Chairperson and citizen appointees. They were:

Terry Sargeant (Chairperson)

Lissa Donner

Kenneth Gibbons

Ian Halket

Judy Head

John Hreno

Kathi Kinew*

Gerard Lecuyer

Robert Mayer*

Wayne Motheral

Harvey Nepinak

Constance Pringle

Wayne Sato

Myrle Traverse

Ken Wait

Barrie Webster

* Interim appointment for Wuskwatim hearing

Role and Responsibilities

Under *The Environment Act* (1988) the Manitoba Clean Environment Commission (the Commission) provides an avenue through which the public can participate in the environmental decision making process in Manitoba. The Commission also provides advice and recommendations to the provincial Minister of Conservation with respect to environmental issues and licensing matters.

Commission membership includes a full-time Chairperson and part-time Commissioners appointed by Order-in Council. Members come from a wide variety of occupations and reside in different regions of the province.

The Commission utilizes the following mechanisms to assist in the environmental management process.

Public Hearings

The public is invited to submit comments and/or objections respecting a proposed development project as part of the environmental assessment process. In response to valid concerns, the Minister of Conservation can ask the Clean Environment Commission to convene a public hearing. During such a hearing the Commission receives representations from the project proponent, the general public - both supporters and opponents, and from the various government departments responsible for reviewing the proposal. The Commission reviews the evidence and information presented at the hearing and prepares a report containing advice and recommendations for the Minister. Upon receipt of the Commission's report, the Minister may choose to accept all or part of its recommendations but is under no legal obligation to do so. If, however, the Commission's recommendations are not acted upon, or incorporated into the licence under review, written reasons must be provided by the Minister or the Department of Conservation and these must be filed in the Public Registry.

"The vision for Manitoba is economic growth which is environmentally sustainable. In our vision the environment will be clean, safe and healthy; and our economy will provide the ongoing wealth and ability to provide goods and services for both present and future generations of Manitobans in an environmentally sound manner." *Sustainable Development Strategy for Manitoba*

Environmental Mediation

Conflicts can occur when two opposing but environmentally sound ideas are proposed for the same location or resource. Providing all parties agree, the Commission can provide environmental mediation services to resolve these conflicts.

Investigations

The Environment Act allows the Commission to investigate any matter of environmental concern and to provide advice and recommendations to the Minister of Conservation.

Message from the Chairperson

The year 2004-05 saw the work of the Commission concentrated on reviewing two large proposed projects: the Wuskwatim Generating Station and Transmission lines and the expansion of the Red River Floodway.

As the year started, the Commission was engaged in the hearings for the Wuskwatim projects. These hearings, which were chaired by Commission member Gerard Lecuyer, consumed 32 days, stretched over almost 3 ½ months, with hearings held in Winnipeg, Thompson and The Pas.

Following the conclusion of the hearings, the Panel engaged in three months of meetings to reach conclusions on the matters before us; and to draft our report on the advice and recommendations we would make to the Minister. Our report was delivered to the Minister in late-September. Our findings are described in more detail later in the report.

As the Wuskwatim review process wound down, we began preparations for the Floodway hearings. These hearings commenced in mid-February and concluded four weeks later, after sessions in Winnipeg and Oakbank. The Hearing Panel included Commission members Wayne Motheral, Barrie Webster and me.

As the reporting year ended, the Panel was engaged in the decision-making, report-writing phase. A review of our conclusions in this regard will be included in next year's report.

In the coming year, the Commission looks forward to continuing to play its role in ensuring the stewardship of the Manitoba environment.

Terry Sargeant

Hearings

Wuskwatim Generating and Transmission Project

During the 2003-2004 fiscal year, the Commission conducted a public hearing respecting the Wuskwatim Generating Station as proposed by Nisichawayasihk Cree Nation and Manitoba Hydro and the Wuskwatim Transmission Project, as proposed by Manitoba Hydro. After pre-hearing meetings and preparations, the formal public hearing began near the end of the 2003-2004 fiscal year and continued into 2004-2005. The report and recommendations were prepared and presented to the Minister of Conservation in September 2004. This was the first environmental assessment conducted by Manitoba Hydro on hydroelectric developments under *The Environment Act*. Following are the details and results of that hearing.

The Manitoba Hydro-Electric Board (MH) and the Nisichawayasihk Cree Nation (NCN) jointly proposed the Wuskwatim Generation Project and MH proposed the Transmission Project. The Wuskwatim Generation Project (Generation Project) calls for a 200-megawatt (MW) hydroelectric plant on the Burntwood River near Wuskwatim Lake, approximately 45 km southwest of Thompson and 35 km southeast of Nelson House. The Wuskwatim Transmission Project (the Transmission Project) consists of three transmission-line segments to transmit the electricity generated by the Generation Project into the existing MH system.

In April 2003, Manitoba's Minister of Conservation mandated the Manitoba Clean Environment Commission to conduct a public hearing to consider:

1. The justification, need for and alternatives to the proposed Wuskwatim Generation and Transmission Projects, and
2. The potential environmental, socio-economic and cultural effects of the construction and operation of the Projects.

The first issue, which was referred to in the mandate was the Needs For and Alternatives To (NFAAT), touched on issues that are often seen to be in the purview of the Manitoba Public Utilities Board (PUB) rather than the Clean Environment Commission. The second issue, the potential environmental, socio-economic and cultural effects, were much more clearly within the Commission's traditional mandate to advise the Government of Manitoba on sustainable development, environmental issues and licensing matters. In order to accommodate this broadened mandate, two members of the PUB were appointed to the Commission and the panel that conducted these hearings.

The panel assigned to conduct the public hearing on the Projects consisted of Mr. Gerard Lecuyer (Chairperson), Dr. Kathi Kinew, Mr. Harvey Nepinak, Mr. Robert Mayer and Mr. Terry Sargeant.

The Commission conducted 32 days of hearings, between March and June 2004, in Winnipeg, Thompson and The Pas (Opaskwayak Creek Nation (OCN)). MH and NCN, funded and non-funded Participants (described below), government regulators, First Nation representatives and members, other Aboriginal organizations, and the general public made presentations to and were questioned by the Commission.

The Commission used two different terms to describe members of the public who participated in the hearing process: Participants and Presenters. Participants were organizations and their representatives who were involved in both the Pre-Hearing Processes and the formal hearing proceedings. Aside from making presentations at the hearing, many Participants retained experts to make submissions, and participated in the questioning of those who made presentations. Presenters were organizations and members of the public who attended and spoke only during the formal hearing proceedings. To allow meaningful participation in the hearings, 11 different Participants received a total of $876,438 through the Participant Assistance Program. One hundred and twenty-six Participants and Presenters were heard.

The Commission heard a wide variety of issues raised, some regarding the Projects under review as well as much discussion about previous projects e.g. Churchill River Diversion, Lake Winnipeg Regulation and their environmental, economic and cultural impacts.

The Commission provided 15 recommendations in the report to the Minister. Some of these directly related to the Projects, the environmental review process and resolution of issues from past projects. Recommendations provided guidance on the mandated issues as well as suggested improvements to the environmental assessment process and compliance with the provision of *The Sustainable Development Act*, Sustainable Development Guidelines and development of practices consistent with provincial and national climate change policies.

Improving the Process

"A cooperative regional planning approach would be more appropriate to assess the cumulative effects of past, present and future developments in northern Manitoba. The Commission further notes that there is potential for a strategic environmental-assessment approach to future planning and development in northern Manitoba that includes hydroelectric development along with future mining, transportation, infrastructure and related projects."

Report on Public Hearings, Wuskwatim Generation and Transmission Projects 2004

The construction and operation of the proposed Projects requires a variety of licences from the both the Government of Canada and the Government of Manitoba. Both projects require licensing under *The Environment Act* of Manitoba, while the Generation Project requires an interim licence under *The Water Power Act* for construction of the Generation Project. The Transmission Project requires a provincial licence under *The Crown Lands Act*. The Generation Project also requires federal authorizations under The *Fisheries Act* for harmful alteration of fish habitat and use of explosives near water and a permit under the *Navigable Waters Protection Act*.

> "Requiring higher standards of performance would enhance the practice of environmental assessment in Manitoba and make it more transparent. ..... The protocols should reduce uncertainty, enhance effectiveness and improve predictability of future environmental assessments."
> *Report on Public Hearings, Wuskwatim Generation and Transmission Projects, 2004. Recommendation 7.8.*

Licensing decisions by Manitoba's Minister of Conservation, Minister of Water Stewardship and Canada's Minister of Fisheries and Oceans also have to take into account the report on consultations with potentially affected First Nations conducted by Manitoba and Canada under Section 35 of the *Constitution Act*.

The Commission not only prepared a complete report that was provided to the Minister and available to the public but also summary reports in both English and Cree to assist the public in understanding the project and the hearing results. All reports are available on the Commission's website.

The Wuskwatim Projects were the first hearings conducted by the Clean Environment Commission on a cost recovery basis as set out in Regulation 210/92 under *The Environment Act*. This process worked well and allowed full concentration of the Commission panel and staff on the job at hand without being preoccupied with financial matters.

Red River Floodway Expansion Project

The Commission began one other public hearing during the 2004-2005 fiscal year. The Manitoba Floodway Authority submitted a proposal to the Environmental Approvals Branch in July 2003. In September 2003, the Minister requested that a public hearing be held regarding the Red River Floodway Expansion Project. Following pre-hearing preparations, the formal public hearing began on February 14 and ended March 10, 2005. The Commission's report will be prepared in

early 2005-2006 and will be conveyed to the Minister of Conservation. The details and results of the hearing will be provided in subsequent reports of the series.

Investigations

The Commission did not undertake any "Investigations", as defined under Section 6(5)(c) of *The Environment Act*, during the 2004/05 fiscal year.

Environmental Mediation

The Commission did not undertake any "Mediations", as defined under Section 6(5)(d) of *The Environment Act*, during the 2004/05 fiscal year.

Manitoba Clean Environment Commission Publications

Preliminary Report on Contamination of Underground Water Sources by Refined Petroleum Products (1975)

Report on the Investigation of the Pollution of Underground Water by Refined Petroleum Products (1975)

Report on the Investigation of Smoke Problems Encountered in Southern Manitoba in 1976 (1977)

Report on an Investigation of Intensive Livestock Production Operations in Manitoba (1979)

Report on a Proposal Concerning Surface Water Quality Objectives and Stream Classification for the Province of Manitoba (1979)

Report on a Proposal for the Classification of Manitoba's Surface Water Souris River Principal Watershed Division (1980)

Report on Red River Waters (Proposed Classification of Surface Water Quality In Manitoba's Red River Principal Watershed Division and Certain Red River Tributaries) (1980)

Report on Proposed Classification of Surface Water Quality in Manitoba's Grass-Burntwood Rivers Principal Watershed Division (1981)

Report on a Proposal for the Classification of Manitoba's Surface Water Red River Principal Watershed Division (1981)

Report on a Proposal for the Classification of Manitoba's Surface Water Grass-Burntwood Rivers Principal Watershed Division (1982)

Report on Mosquito Control Programs in Manitoba (1982)

Report on Environmental Land Use Conflict - Balmoral, Manitoba (1983)

Report on Hazardous and Special Wastes Stage 1 of Phase 1 of Program (1983 & 1984)

Report on the Review of the Plan for the Rehabilitation of the Site of the Domtar Inc. Former Wood Preserving Plant, Transcona, Manitoba (1984)

Report on Manitoba Hazardous Waste Management Program (Volume 1) (1987)

Report on Manitoba Hazardous Waste Management Program (Volume 2) (1987)

Report on the Draft Regulation Respecting Atmospheric Emissions of Sulphur Dioxide and Particulates From Inco Limited in Thompson and HBM & S Co. Limited in Flin Flon (1987)

Report on Investigation of Smoke Problems from Agricultural Crop Residue and Peatland Burning (1987)

Report on Netley Creek Golf Course Development Proposal (1988)

Report on Burns Rendering Plant, Brandon, Review of the Environment Department Licence Regulating the Operation of and Emissions from the Plant (1988)

Report on Village of Shoal Lake Sewage Lagoon Proposal (1988)

Report on Puffy Lake Gold Mine (1988)

Report on Bonne Homme Colony Farms, Rural Municipality of Westbourne (1988)

Report on Upland Colony Farms Sewage Lagoon System (1988)

Report on Precise-To-Form Castings Inc. Investment Casting Foundry Operation (1988)

Report on McCain Foods Limited, Portage la Prairie (1988)

Preliminary Report on a Proposal by Canamax Resources Inc. for the Development of a Potash Mine at Russell, Manitoba (1988)

Final Report on a Proposal by Canamax Resources Inc. for the Development of a Potash Mine at Russell, Manitoba (1989)

Report on Clearwater Lake Watershed Basin Surface Water Quality Classification (1989)

Report on Shell Prairie Inn and Gas Station Wastewater Treatment and Disposal System (1989)

Report on Westlake Regional Water Supply Proposal (1989)

Report on City of Portage la Prairie Sewage Sludge Disposal Project (1989)

Report on North Duck River Headwater Storage Project (1989)

Report on Town of Beausejour Sewage Lagoon Expansion (1989)

Report on COJEF Limited Burning Site (1989)

Report on Deago Properties Sewage Treatment Plant (1989)

Report on Rural Municipality of Rhineland/Town of Altona Liquid Waste Holding Ponds for C.S.P. Foods Ltd. (1989)

Report on Namew Lake Mine/Mill (1989)

Report on Provincial Road #340 Class 2 Highway Relocation Project (1989)

Report on Repap Manitoba Inc. Phase I Modification and Expansion of the Manfor Complex (1989)

Report on Norquay Holding Company Sewage Lagoon (1989)

Report on Airport Holding Co. Ltd. Domestic Wastewater Treatment Lagoon (1990)

Report on Rural Municipality of Portage la Prairie Liquid Waste Disposal Facility (1990)

Report on Highway Gardens Ltd. Variation to Licence #391 (1990)

Report on Whiteshell Colony Farms Ltd. Domestic Waste-water Treatment Lagoon (1990)

Report on Pelican Lake Enhancement Project (1990)

Report on Village of St. Claude Sewage Lagoon and Discharge Route (1990)

Report on Ducks Unlimited Canada Oak Hammock Marsh Conservation Centre/Office Proposal (1990)

Report on Meadow Materials (Dow Corning Silicon Energy Systems, Inc.) Pilot Plant (1990)

Report on Beausejour Auto Wrecking Continuing Operation (1991)

Report on Hudson Bay Mining & Smelting Co. Ltd. Namew Lake Mine/Mill - A Review (1991)

Report on Abitibi-Price Inc. FML #01 Forest Resource Management Plan 1991 - 1998 (1992)

Report on Application of Water Quality Objectives for the Watershed Classification of the Red and Assiniboine Rivers and Tributaries Within and Downstream of the City of Winnipeg (1992)

Report on General Scrap & Car Shredder Ltd. Review of Environment Act Licence 898VC (1992)

Report on Manitoba Hazardous Waste Management Corporation Central Hazardous Waste Management Facility Licence Application (1992)

Rapport Sur Les Audiences Publiques: Demande De Permis Relative À Un Centre de Gestion Des Déchets Dangereux Présentée Par La Corporation Manitobaine De Gestion Des Déchets Dangereux (1992)

Report on Good Hope Holding Company Ltd. Wastewater Treatment Lagoon, Rural Municipality of Portage la Prairie (1992)

Report on the Rural Municipality of Rhineland and The Town of Altona Regarding Ongoing Disposal Practices for Soap-stock and Bleaching Clay Generated by CanAmera Foods Ltd. (1992)

Report on Public Hearings: City of Winnipeg - Deacon Reservoir Expansion, Rural Municipality of Springfield (1993)

Report on Public Hearings: Village of Teulon - Wastewater Stabilization Pond and Pipeline, Rural Municipality of Rockwood (1994)

Report on Public Hearings: Pembina Valley Water Cooperative Inc. Regional Water Supply Proposal (1994)

Report on Public Hearings: Louisiana-Pacific Corporation Oriented Strand Board Plant, Rural Municipality of Minitonas (1994)

Report on Public Hearings: Asessippi Ski Hil Project, Rural Municipality of Shellmouth (1995)

Report on Public Hearings: Solid Waste Management - Capital Region (1995)

Rapport Sur Les Audiences Publiques: Concernant La Gestion Des Déchets Solides Dans La Région De La Capitale (1995)

Report on Public Hearings: Browning Ferris Industries (BFI) Waste Systems Inc. Integrated Waste Management Facility, Rural Municipality of Rosser (1995)

Report on Public Hearings: Louisiana-Pacific Canada Ltd. Ten Year Forest Management Plan 1996-2005 (1996)

Report on Public Hearings: Tolko Manitoba Inc. - Forest Management Plan 1997-2009 (1997)

Report on Public Hearings: Town of Carman Abatement Project – Linear Grain Inc. – Anhydrous Ammonia Storage Tank Relocation (1999)

Manitoba and Climate Change: A Primer (2001)

Workshop Report: Review of Electric and Magnetic Fields (EMFs) (2001)

Report on Public Hearings: Simplot Canada Ltd. Potato Processing Plant, Portage la Prairie/City of Portage la Prairie Water Pollution Control Facility (2002)

Report to the Government of Manitoba on Public Meetings: Flood Protection Options for the City of Winnipeg (2002)

Rapport au gouvernement du Manitoba sur les audiences publiques relatives aux solutions en matiere de protection contres inondations pour la ville de Winnipeg (2002)

Report to the Minister of Conservation on Public Meetings: Draft Environmental Impact Statement Guidelines for the Wuskwatim Generation and Transmission Projects (2002)

Interim Report on Public Hearings: City of Winnipeg Wastewater Collection and Treatment Systems – "Sewage Spill" (2003)

Better Treatment – "Taking Action to Improve Water Quality". Report on Public Hearing: City of Winnipeg Wastewater Collection and Treatment System (2003)

Report on Public Hearings: City of Brandon Industrial Wastewater Treatment Facility Expansion and Maple Leaf Foods Inc. Hog Processing Plant Alteration (2003)

Report on Public Hearings: Rural Municipality of Brokenhead (Garson, Tyndall, and Henryville) Water/Sewer Infrastructure Project (2003)

Report on Public Hearings: Wuskwatim Generation and Transmission Projects (2004)

Summary of Public Hearing: Wuskwatim Generation and Transmission Projects (2004) (also available in Cree).

NOTE: *Copies of all Commission reports are available from the Commission office upon request and on the website www.cecmanitoba.ca.*